

BEFORE THE TAX COMMISSION OF THE STATE OF IDAHO

In the Matter of the Protest of)	
)	DOCKET NO. 20065
[REDACTED])	
)	DECISION
Petitioner.)	
_____)	

On March 8, 2007, the Tax Discovery Bureau (Bureau) of the Idaho State Tax Commission issued a Notice of Deficiency Determination to [Redacted](Petitioner), asserting income tax, penalty, and interest in the amount of \$ 3,219 for the 2005 taxable year. The Notice advised the Petitioner that, if he disagreed with the deficiency determined by the Bureau, he could petition the Tax Commission for a redetermination.

The Petitioner filed an “Affidavit” dated March 19, 2007, which the Commission treated as a petition for redetermination. In letters dated May 3, 2007, and August 8, 2007, the Commission notified the Petitioner that he could meet with a Commissioner or a designee in an informal conference to discuss the deficiency determined by the Bureau, or, in the alternative, submit additional information to show why the deficiency should be redetermined. A telephonic informal conference was held on September 17, 2007. The Petitioner submitted his “decoded IRS Individual Master File” for the Tax Commission to consider prior to the informal conference.

This decision is based on the information contained in the Commission’s files including the Petitioner’s “decoded IRS Individual Master File.” The Commission has reviewed the files, is advised of their contents, and now issues this decision. For the reasons set forth below, the Commission affirms the deficiency determined by the Bureau with interest updated through October 31, 2007.

This is a nonfiler case. The Petitioner did not file an Idaho income tax return for the 2005 taxable year. Based on information obtained by the Tax Commission's Enforcement Specialist, it appeared the Petitioner, who lives in [Redacted], Idaho, did in fact have an Idaho income tax filing requirement for the taxable year at issue. Information received from Federal W-2 and Form 1099-R shows the Petitioner received approximately \$ 37,922 in income sourced to Idaho. The Petitioner also received \$71,040 in income sourced to [Redacted].

Based on the Federal W-2 and Form 1099-R information, the Tax Discovery Bureau prepared a provisional return for the Petitioner based on his Idaho source income. The Bureau provided the Petitioner with personal deductions and exemptions and grocery credits. Once completed, the provisional return showed a tax deficiency existed for the year at issue. The Bureau then issued a Notice of Deficiency Determination which included a description of the information relied upon, a copy of the provisional return, a document showing the calculation of interest, and an explanation of the Petitioner's right to request a redetermination of the deficiency.

The Petitioner responded to the Notice of Deficiency Determination by sending a notarized affidavit letter. In the affidavit, the Petitioner requested information and demanded a due process hearing before collection activities commenced. The affidavit was treated as a timely protest of the Notice of Deficiency Determination.

Persons who are required to file an Idaho individual income tax return must pay Idaho income tax on their taxable income at the rate set forth in Idaho Code § 63-3024. In the event a person fails to file a tax return or to pay the proper amount of individual income tax, Idaho law specifically provides the Commission with the authority to issue a Notice of Deficiency Determination.

The basis of the Notice of Deficiency in this case is Petitioner's W-2 wages and Form 1099-R retirement account distribution. Taxpayer has not presented any information to dispute this factual basis of the deficiency determination. It is well settled in Idaho that a Notice of Deficiency Determination issued by the Idaho State Tax Commission is presumed to be correct. *Albertson's Inc. v. State, Dept. of Revenue*, 106 Idaho 810, 814 (1984); *Parsons v. Idaho State Tax Commission*, 110 Idaho 572, 574-575 n.2 (Ct. App. 1986). The burden is on the taxpayer to show that the tax deficiency is erroneous. *Id.* The Petitioner has failed to show that the provisional return prepared by the Tax Commission was incorrect. Therefore, based on the information available, the Tax Commission finds the provisional return to be a fair representation of the Petitioner's taxable income for the taxable year in question and that the amount shown due on the Notice of Deficiency Determination is true and correct.

WHEREFORE, the Notice of Deficiency Determination dated March 8, 2007, is hereby APPROVED, AFFIRMED, and MADE FINAL.

IT IS ORDERED and THIS DOES ORDER that the Petitioner pay the following taxes, penalty, and interest.

<u>YEAR</u>	<u>TAX</u>	<u>PENALTY</u>	<u>INTEREST</u>	<u>TOTAL</u>
2005	\$2,443	\$611	\$247	<u>\$3,301</u>

Interest is calculated through October 31, 2007, and will continue to accrue until paid.

DEMAND for immediate payment of the foregoing amount is hereby made and given.

An explanation of the Petitioner's right to appeal this decision is enclosed with this decision.

DATED this ____ day of _____, 2007.

IDAHO STATE TAX COMMISSION

COMMISSIONER

CERTIFICATE OF SERVICE

I hereby certify that on this ____ day of _____, 2007, a copy of the within and foregoing DECISION was served by sending the same by United States mail, postage prepaid, in an envelope addressed to:

[Redacted]

Receipt No.